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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph M. Cannon, et. al. :
Application No. 09/777,889 :
Filed: February 7, 2001 :
Attorney Docket No. Cannon 112-102 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application. The delay in responding is sincerely regretted.

In response to the decision mailed June 17, 2008, petitioner submits the present renewed petition along with remarks/arguments and \$120 for a one month extension of time filed on August 27, 2008.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 9, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the remarks/arguments submitted on August 27, 2008, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

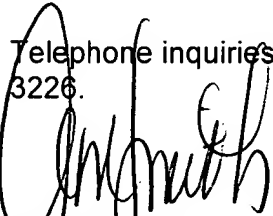
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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By hand: U. S. Patent and Trademark Office
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/777,889

Applicant(s)

CANNON ET AL.

Examiner

KHAI M. NGUYEN

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 8/27/2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

The proposed amendment, they raise new issues that would require further consideration and/or search.

Regarding the Tsukada reference, applicant states that Tsukada does not disclose or even suggest a cordless telephone having a plurality of handsets, with the base unit and plurality of handsets each at a different location.

In contrast to applicant's assertions, the examiner directs the applicant to Tsukada (U.S. Pat. 4,640,987) which clearly discloses or even suggests a cordless telephone having a plurality of handsets, with the base unit and plurality of handsets each at a different location (fig. 4-7, col. 12, lines 3-11, col. 17, lines 12-23). Assuming one unit is in communication with the telephone network line in step 41, and in step 42 that the intercom key of the one unit is actuated, step 43 determines whether or not the other unit answers. If it does answer, this is indicated in step 44 and in step 45 the one unit hangs up. In step 46, the other unit is now in communication with the outside line.

Regarding the Tsukada reference, applicant states that Tsukada does not disclose or even suggest a cordless telephone having at least a first handset and a second handset, with the base unit and the at least first and second handsets being at separate locations, and initiating an intercom connection between a first handset and a second handset.

In contrast to applicant's assertions, the examiner directs the applicant to Tsukada (U.S. Pat. 4,640,987) which clearly discloses or even suggests a cordless telephone having at least a first handset and a second handset, with the base unit and the at least first and second handsets being at separate locations (fig. 4-7, col. 12, lines 3-11, col. 17, lines 12-23). Assuming one unit is in communication with the telephone network line in step 41, and in step 42 that the intercom key of the one unit is actuated, step 43 determines whether or not the other unit answers. If it does answer, this is indicated in step 44 and in step 45 the one unit hangs up. In step 46, the other unit is now in communication with the outside line, and initiating an intercom connection between a first handset and a second handset (col. 4, line 65 to col. 21, line 42).

Regarding the Tsukada reference, applicant states that Tsukada cannot possibly anticipate at least first and second cordless telephone handsets having separate intercom buttons for said base station and each other of said handsets, nor initiation of an intercom communication at one of the first and second handsets, nor an intercom communication permitting voice communication between handsets.

In contrast to applicant's assertions, the examiner directs the applicant to Tsukada (U.S. Pat. 4,640,987) which clearly discloses or even suggests at least first and second cordless telephone handsets having separate intercom buttons for said base station and each other of said handsets (fig. 3-4, intercom key 153, col. 5, line 51 to col. 6, line 4, col. 8, lines 48-67), nor initiation of an intercom communication at one of the first and second handsets, nor an intercom communication permitting voice communication between handsets (col. 4, line 65 to col. 21, line 42).

/Khai M Nguyen/
Examiner, Art Unit 2617